

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

**PETITION TO MODIFY THE CONDITIONS OR TERM OF SUPERVISION
WITH CONSENT OF THE OFFENDER**
(Probation Form 49, Waiver of Hearing, is on file)

Offender Name: Maximiano Barrera III

Docket Number: 1:02CR05094-05

Offender Address: Modesto, California

Judicial Officer: Honorable Robert E. Coyle
Senior United States District Judge
Fresno, California

Original Sentence Date: 04/14/2003

Original Offense: 21 USC 841(a)(1) and 18 USC 2 - Distribution of Cocaine Base and Aiding and Abetting (CLASS A FELONIES)

Original Sentence: 37 months custody of the Bureau of Prisons; 60 months supervised release; \$100 special assessment

Special Conditions: Submit to search; Provide probation officer with access to any requested financial information; Participate in a correctional treatment program to obtain assistance for drug or alcohol use; Participate in a program of testing; Defendant shall not possess or have access to any paging device or cellular phone without the permission of the probation officer and shall provide all billing records for such devices; Participate in a program of mental health counseling; Participate in a co-payment plan for treatment or testing; Defendant shall register as a drug offender.

Type of Supervision: Supervised release

Supervision Commenced: 10/15/2004

Assistant U.S. Attorney: Kathleen A. Servatius **Telephone:** (559) 497-4000

Defense Attorney: John Garland **Telephone:** (559) 497-6132

RE: Maximiano Barrera III

Docket Number: 1:02CR05094-05

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Other Court Action:

11/15/2006:

Probation Form 12B Petition to Modify the Conditions of Supervision was filed this date noticing the Court of the offender's conviction for Driving Under the Influence of Alcohol on August 18, 2005, and a second conviction for Driving Under the Influence of Alcohol and Driving While Privilege was Suspended or Revoked on October 17, 2005. The Court approved the modification as recommended adding the following special conditions: The defendant shall abstain from the use of alcoholic beverages and shall not frequent those places where alcohol is the chief item of sale; and the defendant shall comply with the conditions of home detention for a period of 30 days to commence when directed by the probation officer.

PETITIONING THE COURT

To modify the conditions of supervision as follows:

1. The defendant shall comply with the conditions of home detention with the electronic monitor for a period of 180 consecutive days, to commence when directed by the probation officer. During this time, the defendant will remain at his place of residence except for employment or other activities approved in advance by the defendant's probation officer. The defendant shall maintain telephone service at his place of residence without an answering device, call forwarding, a modem, caller ID, call waiting, or a cordless telephone for the above period.

2. The defendant shall enroll in and successfully complete a 52-week domestic violence program as directed by the probation officer. The defendant shall pay all costs associated with treatment.

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3. The defendant shall have no personal contact with Bianca Perez without the advanced permission of the probation officer and in accordance with the Criminal Protective Order issued by the Stanislaus County Superior Court on October 26, 2007.

Justification: On October 17, 2007, Mr. Barrera was convicted of a violation of California Vehicle Code Section 14601.1(a), Driving When Privilege Suspended or Revoked, a misdemeanor. He was sentenced to 24 months informal probation with a \$400 fine. On October 24, 2007, the offender was convicted of a violation of Penal Code Section 243(e)(1), Battery on a Spouse, Co-habitant, or a person who is the parent of the defendant's child, a misdemeanor. He was sentenced in this matter to 36 months informal probation, 2 days jail, a \$400 fine, and ordered to complete a 52-week domestic violence program. In addition, the offender submitted a urine specimen on January 8 and 22, 2008, which returned from the lab as positive for cannabinoids (marijuana).

As a result of his actions in the above-noted criminal matters, the offender has been returned to drug aftercare treatment and testing. In addition, Mr. Barrera, at his request, has been re-enrolled in mental health counseling. Mr. Barrera began his domestic violence treatment program with Sierra Education and Counseling Services on November 8, 2007. Mr. Barrera is in agreement with the requested modification of his conditions of supervision, and voluntarily signed a Probation Form 49, Waiver of Hearing to Modify the Conditions of Supervised Release, to add the above-noted conditions.

Respectfully submitted,

/s/ Sandra K. Dash

SANDRA K. DASH
United States Probation Officer
Telephone: (209) 549-2817

DATED: January 24, 2008
Modesto, California
SKD:lr

**RE: Maximiano Barrera III
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REVIEWED BY: /s/ Deborah A. Spencer
DEBORAH A. SPENCER
Supervising United States Probation Officer

THE COURT ORDERS:

() Modification approved as recommended.
() Modification not approved at this time. Probation Officer to contact Court.
() Other:

IT IS SO ORDERED.

Dated: January 24, 2008 /s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE